



Department of Energy
Under Secretary for Nuclear Security
Administrator, National Nuclear Security Administration
Washington, DC 20585



May 27, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dr. Charles F. McMillan, President
Los Alamos National Security, LLC
Los Alamos National Laboratory
P.O. Box 1663
MS/A100
Los Alamos, New Mexico 87545

SEA-2015-02

Dear Dr. McMillan:

This letter refers to the Department of Energy's (DOE) investigation into the facts and circumstances related to an incident of security concern (IOSC) regarding the loss of classified matter (security event) at the DOE's National Nuclear Security Administration (NNSA) Los Alamos National Laboratory. Based on the onsite investigation and evaluation of the evidence in this matter, and in consideration of information presented by you and other Los Alamos National Security, LLC (LANS) officials during the enforcement conference on August 12, 2014, NNSA is issuing the enclosed Preliminary Notice of Violation (PNOV) to LANS in accordance with 10 C.F.R. § 824.6, *Preliminary Notice of Violation*. A summary of the enforcement conference and list of attendees is also enclosed.

NNSA has determined that the loss of classified matter resulted in three violations of DOE classified information security requirements. Violations committed by LANS include: (1) failure to factually reconstruct an IOSC to the greatest extent possible and adequately define the potential risk based on the facts and circumstances of the security event; (2) failure to control classified matter that resulted in the event and; (3) failure to implement a comprehensive internal self-assessment process addressing the protection and control of classified matter. LANS deficiencies relating to the control of classified matter and work control processes involving shipping and transfer documentation are detailed in the enclosed PNOV, which describes two Severity Level I violations, and one Severity Level II violation, and proposes a total civil penalty of \$247,500. Pursuant to 10 C.F.R. § 824.4(d), NNSA may assess a civil penalty for each day of a continuing violation. In consideration of the security significance of the classified matter, as confirmed by the damage assessment, determined to be lost, NNSA has elected to cite violation (2) for two separate days. Each violation reflects the maximum applicable per-day base civil penalty authorized under 10 C.F.R. § 824.4(c) at the time of the security event.



Pursuant to 10 C.F.R. § 824.6(a)(4), LANS has the right to submit a written reply within 30 calendar days of receipt of the enclosed PNOV. A reply must contain a statement of all relevant facts pertaining to the violations alleged, and must otherwise follow the requirements of 10 C.F.R. § 824.6(b). Pursuant to 10 C.F.R. § 824.6(c), failure to submit a written reply within 30 calendar days constitutes relinquishment of any right to appeal any matter in the PNOV; and the PNOV, including the civil penalty assessment, will constitute a final order.

After reviewing your response to the PNOV, including any proposed additional corrective actions, a determination will be made on whether further action is necessary to ensure LANS' compliance with DOE's classified information security requirements.

Sincerely,



Frank G. Klotz

Enclosures: Preliminary Notice of Violation (SEA-2015-02)
Enforcement Conference Summary and List of Attendees

cc: Kimberly Davis Lebak, NA-LA
Mike Lansing, LANS
Alex Romero, LANS

Preliminary Notice of Violation

Los Alamos National Security, LLC
Los Alamos National Laboratory

SEA-2015-02

The U.S. Department of Energy (DOE) conducted an investigation into the facts and circumstances surrounding an incident of security concern (IOSC) regarding the loss of control of classified matter that was discovered in December 2012 (hereinafter referred to as the security event) at the Los Alamos National Laboratory (LANL), which is managed and operated for the DOE National Nuclear Security Administration (NNSA) by Los Alamos National Security, LLC (LANS).¹ Following the investigation, DOE issued an investigation report, *Loss of Control of Classified Matter: Los Alamos National Laboratory, Los Alamos National Security, LLC* (hereinafter referred to as the DOE investigation report) dated May 20, 2014, which was provided to LANS on the same date.² On August 12, 2014, an enforcement conference, attended by DOE, NNSA, and LANS representatives, was held at LANL to discuss the findings of the DOE investigation report.³

The purpose of the DOE investigation was to evaluate the security event and to identify potential violations that could be subject to an enforcement action. The DOE investigation report identified three security violations of DOE classified information security requirements. Violations committed by LANS include: (1) failure to factually reconstruct an IOSC to the greatest extent possible and adequately define the potential risk based on the facts and circumstances of the security event; (2) failure to control classified matter that resulted in the security event; and (3) failure to implement a comprehensive internal self-assessment process addressing the protection and control of classified matter.

Pursuant to section 234B of the Atomic Energy Act of 1954, and DOE regulations set forth at 10 C.F.R. Part 824, NNSA hereby issues this Preliminary Notice of Violation (PNOV) to LANS and proposes civil penalties for two Severity Level I

¹ Management and Operating Contract for the Los Alamos National Laboratory National Nuclear Security Administration, Contract No. DE-AC52-06NA25396, awarded December 21, 2005, (LANS Contract). The LANS Contract subsequently has been modified.

² The DOE investigation report sets forth the findings that underlie the violations asserted in this Preliminary Notice of Violation.

³ A summary of the enforcement conference is enclosed with the transmittal letter to this Preliminary Notice of Violation (Enforcement Conference Summary). During the enforcement conference, the LANS Principal Associate Director for Operations and Business stated that LANS disagrees with the conclusions and representations in the DOE investigation report.

violations of requirements set forth in DOE Manual 470.4-1, Chg. 1, *Safeguards and Security Program Planning and Management* (March 7, 2006), and NNSA Policy Letter (NAP) 70.4, *Information Security* (July 2, 2010), and one Severity Level II violation of DOE classified information security requirements set forth in DOE Manual 470.4-1, Chg. 1.⁴

Severity Level I violations are defined in 10 C.F.R. Part 824, Appendix A, *General Statement of Enforcement Policy*, paragraph V.b. as “violations [that] are reserved for classified information security requirements which involve the actual or high potential for adverse impact on the national security.” Severity Level II violations are defined as “violations [that] represent a significant lack of attention or carelessness toward responsibilities of DOE contractors for the protection of classified information which could, if uncorrected, potentially lead to an adverse impact on the national security.” The violations are identified below.

I. Violations

A. Failure to factually reconstruct an IOSC and adequately define the potential risk based on the facts and circumstances surrounding an IOSC

DOE Manual 470.4-1, Chg. 1, Attachment 2, *Contractor Requirements Document*, Part 2, *Safeguards and Security Management*, Section N, *Incidents of Security Concern*, Chapter I, *Identification and Reporting Requirements*, paragraph 6.b.(2)(a) states that an IOSC inquiry must “[r]econstruct the incident of security concern to the greatest extent possible using collected information and other evidence.”

Paragraph 7.b.(4) states that “[a]n inquiry official’s conclusion and the basis/facts that support the conclusion are essential.” Subparagraph (a) states that “[g]iven the facts determined through the inquiry, the conclusion of the final report must address the potential risk to the security interest based upon a subjective analysis of the facts and circumstances surrounding the incident of security concern.”

Contrary to these requirements, based on the following facts, the LANS IOSC inquiry (hereinafter referred to as the LANS inquiry report) failed to factually reconstruct the security event to the greatest extent possible.⁵ As a result,

⁴ The DOE Manuals are applicable to LANS pursuant to the LANS Contract, Part III – Section J, Clause I.123 – DEAR 970.5204-2, Laws, Regulations and DOE Directives (DEC 2000), Appendix G, List of Applicable Directives. DOE Manual 470.4-1, Chg. 1 and NAP 70.4 were incorporated into Appendix G at the time of the security event; they were no longer incorporated in Appendix G as of the date of issuance of this PNOV.

⁵ In April 2013, DOE’s Office of Enterprise Assessments became aware of an IOSC closure reported by LANS that same month in the Safeguards and Security Information Management System. The closure report was of the classified LANS inquiry report, dated March 22, 2013.

LANS did not adequately address the potential risk to the involved security interest based upon subjective analysis of facts and circumstances surrounding this IOSC.

1. In December 2012, LANS employees working at the Nevada National Security Site (NNSS), identified inconsistencies with a Secret/Restricted Data (S/RD) Weapons Data (WD) item (hereinafter referred to as the security event item) that had been documented as being shipped from LANL to the Nevada Test Site (currently known as the NNSS) in 2007.⁶ LANS personnel at NNSS determined that the contents of the 2007 shipment did not match all of the documentation that accompanied the shipment and concluded that the security event item had not been shipped from LANL in 2007.⁷
2. The LANS inquiry report consisted of two parts. In Part I, the section titled “Inquiry Officials Risk Assessment” expresses doubt that the security event item ever left LANL.⁸ The report also states that there is no evidence the security event item left a secure environment at LANL, and the most likely disposition of the security event item was through approved secure destruction.⁹
3. The DOE investigation determined that LANS based these conclusions on two assumptions: (1) it is unlikely that the S/RD markings were simply removed from the security event item and tossed in the trash; and (2) the last known location of the security event item was decertified as a security area in August 2007, so it is unlikely that a scientist saved the item and walked out with it later because the 24-hour protective force remained in place until all classified holdings were removed.¹⁰

⁶ DOE investigation report, at 2.

⁷ *Id.*

⁸ *Id.* at 3.

⁹ *Id.* The DOE investigation also found that the LANS inquiry report assumed that the security event item was destroyed by one of two approved methods prior to 2006 or by a sanitization shot. *Id.* The DOE investigation determined that the first two methods could not have been used because the security event item was not a candidate for the identified destruction methods, and that it isn't possible to conclusively determine whether the security event item was destroyed by a sanitization shot. *Id.* at 4-5. At the Enforcement Conference, LANS provided sworn affidavits from LANS employees interviewed by DOE during the DOE investigation that LANS had re-interviewed after completion of the DOE inquiry. In the affidavits, the LANS employees provided information inconsistent with what they had told DOE investigators (i.e., in the affidavits they stated that it was probable that the security item was destroyed by one of two approved methods). DOE responded that the information in the DOE investigation report is consistent with information initially provided by the LANS employees. Enforcement Conference Summary, at 1-2.

¹⁰ DOE investigation report, at 3.

4. The DOE investigation evaluated the physical security posture of the last known location from the time the security event item was last documented by photographic evidence (hereinafter referred to as the security event item location) until April 2006, when the security event item location was downgraded to a Limited Area (LA). Prior to the downgrade, the security event item location was considered a Material Access Area (MAA) that was surrounded by a Protected Area (PA), with a modified perimeter intrusion detection and assessment system as required for the protection and control of Category I and II special nuclear material (SNM).¹¹ Under this configuration, all persons and vehicles entering and exiting the security event item location were required to be inspected via x-ray machines, as well as metal and SNM monitors, to prevent the introduction of prohibited articles and the unauthorized removal of SNM and classified matter.¹² The DOE investigation determined that under these security conditions, the likelihood of the security event item being removed by unauthorized means is remote, given the deterrence and detection capabilities provided by these physical security protection measures.¹³

5. The DOE investigation determined that the physical security posture of the security event item location was downgraded in April 2006 to a LA due to the removal of all Category I and II SNM from the security event item location.¹⁴ The remaining security assets, such as the security event item, only had the protection and controls provided by vaults or vault-type rooms (VTRs) within an LA. The access area alarms for the security event item location were deactivated when the security posture was downgraded to an LA, leaving only three exterior door alarms active.¹⁵ The documentation certifying the security event item location as being protected only by vaults/VTRs states that as of September 2006, 39 individuals had access to the security event item location, with 16 of these individuals having frequent access and building keys. In addition, under the downgraded LA configuration, all but two protective force posts were removed from the security event item location. The remaining posts were a 24/7 LA roving patrol responsible for conducting checks of gates and other areas (building checks were eliminated in October 2006) and an entry post responsible for the badge exchange program, which operated from 6:30 a.m. to 6:00 p.m. Monday through Friday (excluding holidays).¹⁶ The entry post orders did not require the search of pedestrians or vehicles.¹⁷ In fact, the inspections via x-ray machines, as well as metal and SNM monitors, to prevent the

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 3-4.

¹⁴ *Id.* at 4.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

introduction of prohibited articles and the unauthorized removal of SNM and classified matter were no longer conducted as they were no longer required.¹⁸

6. The DOE investigation determined that the LANS inquiry report inaccurately assumed that the MAA/PA security posture was in place until the security event item location was deactivated as a security area in August 2007 (i.e., when all classified matter was removed).¹⁹ As a result of this erroneous assumption, the LANS inquiry report concluded that the probability of the security event item being removed by unauthorized means was low, when in fact the means to detect and deter the unauthorized removal of classified matter at the security event item location had diminished for over a year.²⁰ The LANS inquiry failed to take into account the reduced security measures from April 2006 to August 2007 when considering what could have happened to the security event item. Therefore, although the LA security posture met the required protection level for classified matter such as the security event item, given the downgraded security posture and the portability of the security event item, the probability of undetected removal cannot be regarded as “low.” The LANS inquiry report therefore failed to factually reconstruct the security event to the greatest extent possible because the conclusion of the LANS inquiry report did not adequately address the potential risk that the security event item could have been removed from the security event item location in an unauthorized manner based upon subjective analysis of the facts and circumstances surrounding this IOSC.

Collectively, these noncompliances constitute a Severity Level I violation.

Base Civil Penalty - \$110,000²¹

Proposed Civil Penalty - \$110,000

B. Failure to control classified matter

NAP-70.4, Section A, *Classified Matter Protection and Control*, subparagraph 1., states that the objectives are to “[p]rotect and control classified matter that

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ 10 C.F.R. Part 824 was amended in 2009 to reflect that effective January 13, 2010, the maximum civil penalty per violation for Base Civil Penalty for Severity Level I violations was \$110,000: 74 Fed. Reg. 66033 (December 14, 2009). The rule was amended again in 2014 to raise this figure to \$120,000 effective February 3, 2014; 79 Fed. Reg. 1 (January 2, 2014). This rule adjusted DOE’s civil monetary penalties for inflation as mandated by the Debt Collection Improvement Act of 1996. This 2009 change will be applied to the proposed Base Civil Penalties for LANS because the security event was discovered in 2012.

is generated, received, transmitted, used, stored, reproduced, permanently buried or to be destroyed.”

Contrary to these requirements, based on the following facts, LANS failed to properly control classified matter.

1. The DOE investigation determined that for the 2007 shipment, the shipper/receiver agreement (SRA), *Material Control and Accountability Shipper/Receiver Agreement between Los Alamos National Laboratory and Nevada Test Site for Plutonium and Uranium Materials*, contained a section titled *Site-Specific Criteria* describing the packaging, measurement, and documentation that LANS was required to complete in order to comply with the provisions of the SRA.²² The required transfer documentation included a variety of measurements and accountability values, as well as photographs and dimensional specifications.²³ The SRA also required LANS to provide shipping papers and transfer documents to NNSS within a few days prior to the shipment.²⁴
2. In 2007, LANS packed and measured an item and prepared shipping papers and transfer documents as required by the SRA.²⁵ The DOE investigation found that the shipping papers and transfer documents prepared for the 2007 shipment included detailed photographs and dimensional specifications for the security event item.²⁶ However, the security event revealed that the LANS shipping papers and transfer documents failed to accurately reflect what was actually shipped to NNSS because the security event item was not in fact shipped.
3. LANS had sufficient information (including photographs) available to identify the apparent discrepancies between the item packaged for shipment and what was represented in the shipping papers and transfer documents that were provided to NNSS days before the actual shipment.²⁷ LANS's failure to identify these discrepancies created the false assumption that the security event item had been shipped to NNSS and resulted in the loss of control of S/RD WD matter.

Collectively, these noncompliances constitute a Severity Level I violation.

Base Civil Penalty - \$110,000

Proposed Civil Penalty (as adjusted for escalation and mitigation) - \$110,000

²² DOE investigation report, at 6.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

C. Failure to implement a comprehensive internal self-assessment process addressing the protection and control of classified matter

DOE Manual 470.4-1, Chg. 1, Attachment 2, *Contractor Requirements Document*, Part 1, *Planning and Evaluation*, Section G, *Survey, Review, and Self-Assessment Programs*, paragraph 1.a., states as an objective: to “[p]rovide assurance to the Secretary of Energy, Departmental elements, and other government agencies that safeguards and security (S&S) interests and activities are protected at the required levels.”

Paragraph 1.b., states as another objective: to “[p]rovide a basis for line management to make decisions regarding S&S program implementation activities, including allocation of resources, acceptance of risk, and mitigation of vulnerabilities. The results must provide a compliance-and performance-based documented evaluation of the S&S program.”

Paragraph 2.b., *Scope and Methodologies* requires that “[s]urveys and self-assessments must provide an integrated evaluation of all topical and subtopical areas to determine the overall status of the S&S program and ensure the objectives of this section are met....The scope of these activities and methods used must include....” Subparagraph (3), states that “[c]omprehensiveness identifies the breadth of protection afforded all activities and interests within a facility. This is accomplished by an evaluation of the adequacy and effectiveness of programs and a thorough examination of the implementation of policies, practices, and procedures to ensure compliance and performance....”

Contrary to these requirements, as of the date of discovery of the security event based on the following facts, LANS had not implemented a comprehensive self-assessment process that thoroughly evaluated the adequacy and effectiveness of its classified matter protection and control (CMPC) program to provide assurance to line management that the protection and control of classified matter at LANL complies with existing policies, practices, and procedures.

1. The DOE investigation found that LANS’s CMPC self-assessments were not comprehensive because they did not address classified matter openly stored in vaults or VTRs.²⁸ Specifically, the investigation determined the LANS annual Associate Directorate for Safeguards and Security’s CMPC self-assessment activities from 2008 through 2013 were limited to reviews of classified holdings stored in Government Services Administration

²⁸ *Id.* at 7.

(GSA)-approved repositories.²⁹ In other words, classified matter, regardless of form (e.g., documents, material, or parts), that was stored outside of a GSA-approved repository was not included in the sampling of classified matter to be reviewed during LANS CMPC self-assessment activities. Consequently, at the time of the security event, LANS was relying on insufficient assessment results as a basis for line management decision-making on the effective implementation of CMPC program activities and therefore had limited assurance that all classified matter and activities were protected and controlled at the required levels across LANL.³⁰

2. Due to LANS's lack of attention to implementing a comprehensive self-assessment process that thoroughly evaluates the adequacy and effectiveness of the CMPC program, line management had limited assurance that the protection and control of classified matter at LANL complied with applicable Departmental policies. Although these noncompliances regarding CMPC self-assessments had no impact on the circumstances surrounding the security event, DOE has determined that they constitute a security violation of LANS's contractual requirement to protect and control classified matter.

Collectively, these noncompliances constitute a Severity Level II violation.

Base Civil Penalty - \$55,000

Proposed Civil Penalty (as adjusted for mitigation) - \$27,500

II. Assessment of Civil Penalties

The significance of the information concerning the security event is a primary factor in NNSA's determination of the amount of civil penalties proposed for violations of DOE requirements. NNSA also had determined that civil penalties are warranted due to LANS's failure to implement an adequate CMPC self-assessment program until 2014.

A. Severity of the Violations

Both the LANS inquiry report and the DOE investigation report concluded that a compromise of classified information cannot be ruled out.³¹ LANS's failure to recognize the apparent discrepancies between the assembled shipping papers and the transfer documents, and its lack of knowledge of the contents of the 2007 shipment container and the physical characteristics of the contents, resulted in the loss of control of S/RD WD matter. This anomaly

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

went unrecognized for over five years until LANS, at NNSS, discovered a potential problem with the documentation concerning the contents of the 2007 shipment on December 20, 2012.³² LANS confirmed the shipping content discrepancy based on the shipping papers and transfer documents on January 7, 2013, but did not report the potential loss of classified matter to LANS's security incident team for over three weeks.³³

In addition, LANS failed to factually reconstruct the security event to the greatest extent possible, so its conclusion about the potential risk (i.e., that the security event item is unlikely to have left the secure environment of LANL so the likelihood of a compromise of S/RD WD matter is low) was not based on a subjective analysis of the facts and circumstances surrounding this IOSC.³⁴ The DOE investigation report determined that this conclusion was based on the unsubstantiated assumptions that the security event item was destroyed via an approved method for classified matter destruction and that the unauthorized removal of the security event item was unlikely due to the MAA/PA security configuration of the security event item location.³⁵ The LANS inquiry report failed to recognize that the security event item location was downgraded to an LA more than a year before LANS certified that the security event item location was free of classified matter.³⁶ This means that although the LA security posture met the required protection level for classified matter such as the security event item, the LANS inquiry report conclusion relative to potential risk did not consider the portability of the security event item and the probability of undetected removal, given the downgraded security posture.³⁷

The DOE investigation report also determined that LANS conducted a damage assessment as part of the security event inquiry due to the loss of S/RD WD matter and the results, in some circumstances, indicated a high level of damage to the national security.³⁸ Because LANS erroneously assumed that the physical security posture of the security event item location remained at a high level until all classified matter was removed from the security event item location, the consideration of the likelihood of unauthorized removal and compromise was incorrectly determined, by LANS, to be low. Consequently, the LANS inquiry report conclusion regarding potential risk did not correctly reflect the results of the damage assessment.

³² *Id.* at 2.

³³ LANS Final Inquiry Report, at Attachment F.

³⁴ DOE investigation report, at 3.

³⁵ *Id.* at 5.

³⁶ *Id.* at 4.

³⁷ *Id.*

³⁸ LANS inquiry report, at Part II, Attachment 1.

B. Mitigation of Penalties

NNSA provides strong incentives, through opportunity for mitigation, for contractors to self-identify and promptly report security noncompliances before a more significant event or consequence arises. The weaknesses in LANS work control processes for shipping activities identified by DOE should have been identified by LANS before being revealed by this self-disclosing security event. Consequently, NNSA finds that no mitigation for self-identification and reporting is warranted for Violations A, B, or C of this PNOV.

Another mitigating factor that NNSA considers is the timeliness and effectiveness of a contractor's causal analysis and corrective actions. LANS did not address the factual inaccuracies associated with its inquiry report and the impact on LANS's conclusion about potential risk. After the enforcement conference, LANS provided additional documentation to clarify the protection measures that were in place after the security event item location had been downgraded to an LA. This documentation did not differ from documentation that LANS provided to DOE during the DOE investigation. In fact, the new documentation supports DOE's conclusion that the LANS inquiry report failed to recognize the downgraded physical security posture at the security event item location. Consequently, NNSA finds that no mitigation for corrective actions involving Violation A is warranted.

Upon discovery of the security event, LANS implemented corrective actions that could reduce the likelihood of recurrence of the loss of control of classified matter. For example, LANS completed a management self-assessment of its performance relative to management of classified parts and accelerated the completion of its annual inventory of classified parts, which revealed 100 percent accuracy.³⁹ In addition, LANS addressed shortcomings in its work control processes for shipping activities that contributed to this security event by revising its material control and accountability procedures and training.⁴⁰ In January 2014, LANS revised the scope of its CMPC self-assessments to include classified assets openly stored in vaults and VTRs. A number of CMPC self-assessments have been conducted since this change, and they appropriately review classified assets stored in GSA-approved repositories and openly stored in vaults and VTRs. As a result, NNSA finds that 50 percent mitigation is warranted for corrective actions associated with Violations B and C.

³⁹ *Id.* at Report by office concerned.

⁴⁰ *Id.*

C. Civil Penalties

NNSA concludes that civil penalties are fully warranted in this case. While civil penalties assessed under 10 C.F.R. Part 824 should not be unduly confiscatory, they should nonetheless be commensurate with the gravity of the violations at issue. In assessing penalties, NNSA considered the nature and severity of the violations in this case, as well as the circumstances in which they occurred.

Pursuant to 10 C.F.R. § 824.4, DOE may propose a civil penalty for each continuing violation on a per-day basis. Although DOE finds that LANS developed and implemented sufficient corrective actions for Violation B, NNSA has elected to assess the base civil penalty for Violation B for two separate days. This determination is based on the security significance of the classified matter, as confirmed by the damage assessment, determined to be lost.

In light of these considerations, NNSA proposes the imposition of a civil penalty of \$385,000 for the two Severity Level I violations and one Severity Level II violation, less 50 percent mitigation for corrective actions associated with Violations B and C, resulting in a total proposed civil penalty of \$247,500.

III. Opportunity to Reply

Pursuant to 10 C.F.R. § 824.6(a)(4), LANS may submit a written reply to this PNOV within 30 calendar days of receipt of the PNOV. LANS may submit a request for a reasonable extension of time to file a reply to the Director, Office of Enforcement, in accordance with 10 C.F.R. § 824.6(d). The reply should be clearly marked as a “Reply to the Preliminary Notice of Violation.”

If LANS disagrees with any aspect of this PNOV or the proposed remedy, then as applicable and in accordance with 10 C.F.R. § 824.6(b), the reply shall: (1) state any facts, explanations, and arguments that support a denial of an alleged violation; (2) demonstrate any extenuating circumstances or other reason why the proposed remedy should not be imposed or should be further mitigated; and (3) discuss the relevant authorities that support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE. In addition, 10 C.F.R. § 824.6(b) requires that the reply include copies of all relevant documents.

If LANS chooses not to contest the violations set forth in this PNOV and the proposed remedy, then the reply should state that LANS waives the right to contest any aspect of this PNOV and the proposed remedy. In such case, the total

proposed civil penalty of \$247,500 must be remitted within 30 calendar days after receipt of this PNOV by check, draft, or money order payable to the Treasurer of the United States (Account 891099) and mailed to the address provided below. This PNOV will constitute a final order upon the filing of the reply.

Please send the appropriate reply by overnight carrier to the following address:

Director, Office of Enforcement
Attention: Office of the Docketing Clerk
U.S. Department of Energy
19901 Germantown Road
Germantown, MD 20874-1290

A copy of the reply should also be sent to my office and the Manager of the NNSA Los Alamos Field Office.

Pursuant to 10 C.F.R. § 824.6(c), if LANS fails to submit a written reply within 30 calendar days of receipt of this PNOV, LANS relinquishes any right to appeal any matter in this PNOV and this PNOV, including the proposed remedy, will constitute a final order.



Frank G. Klotz
Under Secretary for Nuclear Security
Administrator, NNSA

Washington, DC
This 27 day of May, 2015